

# Notice of Allowability

Application No.

09/823,763

Examiner

Tom Y. Lu

Applicant(s)

ISHIYAMA, RUI

Art Unit

2624

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response filed on 7/17/2006.
2. ☒ The allowed claim(s) is/are 2-30, 33-61 and 64-99.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

JINGGE WU  
PRIMARY EXAMINER

## **DETAILED ACTION**

### ***Response to Amendment***

1. The response filed on 7/17/2006 has been considered.
2. Claims 1, 31, 32, 62 and 63 have been cancelled.
3. Claims 2-30, 33-61, 64-98 and 99 are pending.
4. An affidavit under 37 CFR 1.131 filed on 7/17/2006 has been entered and considered.
5. Upon entry of the affidavit, the prior art reference of Roy et al (U.S. Patent No. 6,959,569) is no longer applicable. Accordingly, the rejection made in view of Roy et al has been withdrawn.

### ***Election/Restrictions***

6. Claims 2, 21, 33, 52, 64 and 83 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 3, 5, 10-12, 16-20, 23, 25-26, 34, 36, 41-43, 47-51, 54, 56-57, 65, 67, 72-74, 78-82, 85, 87 and 88, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.
7. Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, the restriction requirement as set forth in the Office action mailed on 6/25/2004 is hereby withdrawn. In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claims including all the limitations of an allowable product claim or rejoined process claim are presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is

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withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

#### **EXAMINER'S AMENDMENT**

8. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

9. Authorization for this examiner's amendment was given in a telephone interview with Howard L Bernstein, Reg. 25,665 on 8/9/2006.

The application has been amended as follows:

- a. Claim 64, line 1: Please replace "a machine-readable record medium storing one or more programs" with "a computer-readable record medium storing one or more computer programs".
- b. Claim 83, line 1: Please replace "a machine-readable record medium storing one or more programs" with "a computer-readable record medium storing one or more computer programs".

#### ***Allowable Subject Matter***

10. Claims 2-30, 33-61, 64-98 and 99 are allowed.

The following is an examiner's statement of reasons for allowance:

- a. The prior art of record, Roy et al (US Patent No. 6,959,569), has been disqualified upon entry of the affidavit filed on 7/17/2006. Accordingly, the rejection of

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independent claims 2, 21, 33, 52, 64 and 83 made in view of Roy et al has been withdrawn.

- b. Claims 3-20 and 23-30 are dependent upon claim 2.
- c. Claims 22 and 94 are dependent upon claim 21.
- d. Claims 34-51 and 54-61 are dependent upon claim 33.
- e. Claims 53 and 95-97 are dependent upon claim 52.
- f. Claims 65-82 and 85-93 are dependent upon claim 64.
- g. Claims 84 and 98-99 are dependent upon claim 83.

11. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Prokoski, U.S. Patent No. 6,496,594 B1, see figure 8.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Y. Lu whose telephone number is (571) 272-7393. The examiner can normally be reached on 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on (571)-272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TYL



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